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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Gibraltar

Working paper prepared by the Secretariat

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Note: The information contained in the present working paper has been derived from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations as well as information provided by the Government of Spain and that available in public sources, including those of the territorial Government. Information was transmitted by the administering Power on 10 January 2014. Further details are contained in previous working papers, available from www.un.org/en/decolonization/workingpapers.shtml.

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I. General

1. Gibraltar is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland. According to the administering Power, the basis of the current relationship between the Government of the United Kingdom and its Non-Self-Governing Territories is enshrined in the constitution of each Territory; sovereignty over Gibraltar was ceded to the United Kingdom by Spain under the Treaty of Utrecht in 1713, with territorial waters flowing from sovereignty over the land. For its part, Spain claims that, under article 10 of the Treaty, it ceded only the city and castle of Gibraltar, its port, defences and fortresses. Against the backdrop of its long-standing appeal to Spain and the United Kingdom to hold talks on the question of Gibraltar (see resolution 2070 (XX), adopted on 16 December 1965), in 2014, the General Assembly, in its decision 69/523, among other things, urged the Governments of Spain and the United Kingdom, while listening to the interests and aspirations of Gibraltar that are legitimate under international law, to reach, in the spirit of the Brussels Declaration of 27 November 1984, a definitive solution to the question, in the light of the relevant resolutions of the Assembly and applicable principles, and in the spirit of the Charter of the United Nations (see sects. VIII and IX below).

2. The Territory is a narrow peninsula extending southward from the south-west coast of Spain, to which it is connected by an isthmus approximately 1.6 km long. The Spanish port of Algeciras lies 8 km across the bay to the west, and the continent of Africa is situated 32 km across the Strait of Gibraltar to the south. According to the administering Power, the area of Gibraltar is 5.8 km^2; according to Spain, which claims sovereignty over the Territory, it is 4.8 km^2. Issues relating to the isthmus and waters off Gibraltar continue to be a subject of contention.

3. According to the administering Power, in 2013 the population of the Territory was approximately 32,700. The currency of the Territory is the Gibraltar pound, circulating at par with the pound sterling. The Territory's main trading and commercial transactions are with European countries, the United States of America and North African countries. The British Overseas Territories Act 2002 provides for the granting of British citizenship to British overseas territory citizens.

II. Constitutional, legal and political issues

4. Under the Gibraltar Constitution Order 2006, the Government of Gibraltar consists of the elected ministers represented in the Council of Ministers and the Governor, who represents the British Crown. Lieutenant General Sir James Benjamin Dutton has been the Governor since December 2013. In accordance with the 2006 Constitution, the Governor is responsible for the conduct of external affairs, defence, internal security (including the police, in conjunction with the Gibraltar Police Authority) and for certain appointments to public office as conferred on him by it. According to the administering Power, the elected Government of Gibraltar has full control over all other matters. Following an election, the Governor, at his own discretion, appoints as Chief Minister the elected member of the Parliament who, in his judgement, is most likely to command the greatest measure of confidence of his peers. Other ministers are appointed by the Governor, acting in accordance with the advice of the Chief Minister, from among the elected members of the Parliament. Under the 2006 Constitution, the British

Crown retains legislative power to make laws from time to time for the peace, order and good government of Gibraltar. The 2006 Constitution also makes provisions regarding Crown lands in Gibraltar.

5. Gibraltar has a supreme court allowing for appeals to a court of appeal and subsequently to Her Majesty in Council, acting on the advice of the Judicial Committee of the Privy Council.

6. As previously reported, the Gibraltar Socialist Labour Party/Gibraltar Liberal Party alliance headed by Fabian Picardo won the general elections held on 8 December 2011 with approximately 49 per cent of the votes, winning 10 seats in the Parliament, against 47 per cent for the Gibraltar Social Democrats, who won the remaining 7 seats. The next election is expected to be held in 2015.

7. The 2006 Constitution recognizes that, without prejudice to the administering Power's ultimate responsibility for Gibraltar's compliance with European Union law, matters which under the 2006 Constitution are the responsibility of the elected ministers shall not cease to be so even though they arise in the context of the European Union. In June 2004, after a legal and political campaign to exercise the right to vote in European elections, Gibraltarians took part in European parliamentary elections for the first time, which was achieved by the creation of a new electoral region, for the purposes of the European parliamentary elections only, consisting of Gibraltar and the south-west region of England (the "combined region") by the administering Power. Gibraltarians again took part in European parliamentary elections in June 2009 and May 2014.

8. The administering Power, the United Kingdom, continues to believe that, as a separate Territory recognized by the United Nations and included since 1946 in its list of Non-Self-Governing Territories, Gibraltar enjoys the individual and collective rights accorded by the Charter. The United Kingdom also believes that the people of Gibraltar enjoy the right of self-determination. The administering Power is clear that the 2006 Constitution sets out the relevant competences for the Governments of the United Kingdom and Gibraltar.

9. For its part, the Government of Spain maintains the position that the 2006 Constitution does not affect the international capacity of Gibraltar; that its adoption was a reform of the colonial regime, which remains unaltered; and that it did not affect in any way the pending decolonization process of Gibraltar, to which the principle of territorial integrity applies, not that of self-determination. In this context, the Government of Spain stresses that the participation of Gibraltar in any international instrument must be made through the United Kingdom as the administering Power responsible for the international relations of the Territory, including in the fields of international financial services, human rights and the environment.

III. Budget

10. According to information provided by the administering Power, as at March 2014 the revenue of the territorial Government was £544.8 million and its expenditure stood at approximately £409.6 million. The territorial Government approved £120.3 million in expenditure on capital projects for 2014-2015, to be funded through the Improvement and Development Fund. The highest possible rate

of effective personal tax in Gibraltar is 30 per cent, with the company tax rate at 10 per cent. According to the administering Power, Gibraltar adheres to all relevant European Union directives in relation to financial supervision and regulation, direct taxation and the fight against money-laundering. Since October 2013, the European Commission has been carrying out an investigation into Gibraltar's tax regime, following the complaints from Spain that, inter alia, Gibraltar's tax system, through its Income Tax Act 2010, constituted State aid, which was incompatible with the regulations of the European Union.

IV. Economic conditions

A. General

11. Gibraltar has no known natural resources and lacks agricultural land. The economy has increasingly focused on tourism and the provision of financial services, including banking, insurance, shipping and portfolio management, in addition to online gaming. According to information provided by the administering Power, the gross domestic product of Gibraltar grew to approximately £1.412 billion in 2013-2014, with an estimated gross domestic product per capita of £43,100.

12. Before 1980, the economy was largely dependent on expenditure by the Ministry of Defence of the United Kingdom. According to the administering Power, the situation changed dramatically over the years as United Kingdom military spending went from accounting for 60 per cent of the Gibraltarian economy to accounting for less than 6 per cent. According to the administering Power, in 2013, the Ministry employed some 600 people out of a workforce of about 23,000.

B. Trade

13. In 2013, according to the administering Power, the Territory's total imports amounted to approximately £2.174 billion. Some 29 per cent of non-fuel imports originate from the United Kingdom, with other sources including Germany, the Netherlands and Spain. The Territory's total exports for 2013 were approximately £1.727 billion. Exports continued to be mainly re-exports of petroleum and petroleum products supplied to shipping.

14. In this connection, the Government of Spain has repeatedly denounced the alarming rate of supplies of fuel taken at sea from tanks on ships from Gibraltar (a process known as "bunkering") as a serious environmental hazard in such a transited area as the Strait of Gibraltar.

15. For its part, the Government of the United Kingdom maintains its position that the bunkering industry in Gibraltar is a well-regulated and legal commercial activity that meets the marine pollution regulations of the International Maritime Organization and has a strong environmental record. In July 2014, the European Commission's Directorate-General for the Environment ruled that following environmental complaints received from Spain concerning the artificial reef, bunkering activity and land reclamation in Gibraltar, it was unable to identify any breach of European Union environmental legislation.

16. Spain states that it continues to seek actions by the European Commission by providing documents regarding violations of Spanish and European Union laws in the waters adjacent to Gibraltar, which are, in its view, Spanish waters. Furthermore, Spain maintains that its actions before the European Commission to guarantee strict compliance with European Union law do not prejudge or alter the position of Spain concerning sovereignty over waters adjacent to Gibraltar.

C. Banking and financial services

17. According to the administering Power, Gibraltar has a well-developed private financial sector that is regulated by the Financial Services Commission. The regulatory scope extends to all forms of financial services and Gibraltar's legislation, systems and administrative practices, which, in the view of the administering Power, are in full compliance with its European Union obligations, have been independently tested by reviews by the Financial Action Task Force, the International Monetary Fund and others. Gibraltar is also participating in the Financial Action Task Force national risk assessment and peer review process.

18. Tax evasion is a predicate offence for money-laundering and subject to suspicious transaction reporting. Gibraltar's Financial Intelligence Unit, as a member of the Egmont Group, shares information systematically with other members of the Group. Gibraltar has also entered into the equivalent of 125 tax information exchange agreements with some 77 countries and territories. It has also entered into Foreign Account Tax Compliance Act agreements on automatic exchange of information with the United Kingdom and the United States. Furthermore, in 2014, following the peer review by the Global Forum on Transparency and Exchange of Information for Tax Purposes, which focuses on the implementation of the internationally agreed standards of transparency and exchange of information in tax areas, Gibraltar received an overall rating of "largely compliant". According to the administering Power, Gibraltar has also committed to adopting the Common Reporting Standard of the Organization for Economic Cooperation and Development (OECD) for the automatic exchange of tax information. Spain, on the other hand, considers that there was reason to believe that money-laundering from Gibraltar had been committed, referring to the report of the European Anti-Fraud Office of the European Commission issued in July 2014 (see also para. 35 below).

D. Transportation

19. Enhancements to road transportation arrangements in and out of Gibraltar were agreed upon at talks held in Córdoba, Spain, in 2006. They included the introduction at the fence/frontier of lanes in both directions, and red and green channels for both people and vehicles. Proportionate customs and police checks remain necessary, given that Gibraltar does not belong to the European Union Customs Union. Moreover, the United Kingdom (and thus Gibraltar) does not belong to the Schengen area for external border control purposes. In the view of the administering Power, since 26 July 2013, the Government of Spain has imposed disproportionate and time-consuming checks at the border between Gibraltar and Spain.

20. The European Commission has dispatched two technical fact-finding missions to La Linea de la Concepción and Gibraltar, in September 2013 and July 2014. The Commission issued recommendations to the authorities of the United Kingdom and Spain following its two missions.

21. Spain stresses that the checks at the fence are in no manner politically motivated and are carried out only to ensure strict compliance with Spanish and European Union legislation, in accordance with the principles of randomness, proportionality and non-discrimination. The checks are essential for Spain to fulfil its obligations vis-à-vis the whole of the European Union and are especially necessary taking into account that in the area illicit trafficking of different sorts is common and that Gibraltar is neither in the Schengen area nor in the European Union Customs Union. Moreover, Spain underlines that the police and customs checkpoint at La Linea de la Concepción (the fence) does not correspond to the demarcation of the border recognized by Spain in accordance with the Treaty of Utrecht. There remain, sporadically, delays to vehicular and pedestrian traffic at the fence. Spain further stresses that it fully complies with the recommendations by the European Commission regarding the management at the fence of the flow of persons, vehicles and goods by, for instance, improving traffic control and custom systems in order to achieve greater effectiveness in combating smuggling and more fluid traffic at the fence and by introducing a new system for crossing for accredited cross-border workers on either side of the fence in order to improve their living conditions.

22. The United Kingdom continues to be responsible for all international obligations relating to aviation safety and security in respect of the airport, a military airfield available for civilian flights, with the Ministry of Defence retaining ownership of and operational responsibility for the military aviation aspects of the airfield. According to the administering Power, legislation enacted by the Gibraltar Parliament provides for civil aviation safety and security, making civil aviation a responsibility of the Government of Gibraltar. Such responsibility continues to be rejected by Spain. Spain holds the position that the occupation by the United Kingdom of the isthmus on which the airfield was built is illegal and that it does not comply with public international law because it is not included among the areas ceded by the Treaty of Utrecht. For its part, the United Kingdom maintains that its sovereignty extends over the whole territory of Gibraltar.

23. The Strait of Gibraltar is a principal water route; the Territory's port facilities are used by many long-distance liners and cargo ships. According to the United Kingdom, it applies a three-nautical mile area for British Gibraltar territorial waters (or less where the median line with other territorial waters applies), in line with the United Nations Convention on the Law of the Sea. According to Spain, it exerts its sovereign rights and jurisdiction over its territorial waters, including all maritime areas around Gibraltar (with the only exception being its port facilities).

24. The administering Power regularly challenges Spanish State vessels and protests to the Government of Spain about illegal incursions into British Gibraltar territorial waters by Spanish State vessels, citing violations of articles 17 to 19 of the United Nations Convention on the Law of the Sea, on the meaning of innocent passage, and of the Convention on the International Regulations for Preventing Collisions at Sea.

25. For its part, Spain states that what the United Kingdom describes as "illegal incursions" by Spanish vessels are routine activities of its ships in Spanish waters.

E. Tourism

26. In 2013, the tourism sector recorded a decrease to almost 11 million visitors. Arrivals by land comprise mainly day visitors arriving from Spain; arrivals by air are primarily tourists from the United Kingdom; and arrivals by sea include visitors arriving by ferry from Morocco and on day trips from cruise ships.

V. Social conditions

A. Labour

27. According to the administering Power, as at October 2013, there were approximately 23,000 jobs in the Territory, including, from the largest industrial sectors, some 2,100 jobs in building and construction, more than 3,300 in banking and finance, more than 3,300 in gambling and betting and more than 3,200 in the retail and wholesale trade. The unemployment rate stood at 2.6 per cent of the workforce.

B. Social security and welfare

28. The social security and welfare sectors in Gibraltar continue to be governed by various social security acts, as mentioned in previous working papers, covering areas such as employment injury, disablement and industrial death benefits, maternity grants and allowances, death grants, old age pensions, survivor's benefits and guardian's allowances.

C. Public health

29. The Gibraltar Health Authority, a department of the territorial Government, is responsible for providing health care in the Territory. The territorial Government continues to deal with the needs of the elderly.

D. Education

30. Education in Gibraltar is free and compulsory for children between 4 and 15 years of age. The language of instruction is English. Public education comprises 11 primary and two secondary schools, in addition to the Gibraltar College of Further Education and the Vocational Training Centre, serving more than 5,000 students. The Territory's literacy rate is assumed to be nearly 100 per cent. According to the administering Power, the Government of Gibraltar has announced plans to establish a University of Gibraltar and has approved funding of £10 million towards this project.

31. Government expenditure on education during the year ending in March 2014 was almost £39 million, with expenditure on improving school buildings in the region of £2.4 million. Students who obtain a place at a university in the United Kingdom are entitled to scholarships from the Government of Gibraltar. According to the territorial Government, in 2013-2014, 823 students attended universities in the United Kingdom.

E. Crime and public safety

32. Law enforcement in the Territory is the responsibility of the Royal Gibraltar Police, in conjunction with the Gibraltar Police Authority. The Governor has overall, ultimate responsibility for the integrity, probity and independence of policing in Gibraltar and for the policing aspects of national security, including internal security.

33. According to the administering Power, the figures for overall recorded crime dropped by 4.5 per cent for the period 2013-2014 to approximately 3,530 (down from approximately 3,700 for the previous year). The administering Power indicates that this reduction is across all crime sectors, including serious crimes, drug-related crimes and traffic offences.

34. As previously reported, in 2012, a Gibraltar Police Authority survey identified tobacco smuggling as an issue to be addressed in police planning. According to figures provided by Spain, tobacco smuggling originating from the Territory increased by 213 per cent between 2010 and 2012, reaching in 2013 a total of almost 1 million packs of cigarettes. In 2014, the Government of Spain claimed that the United Kingdom failed to tackle a sharp rise in tobacco smuggling at the fence.

35. According to media and other sources, the European Anti-Fraud Office of the European Commission, in its above-mentioned July 2014 report, pointed out that, between 2010 and 2013, tobacco smuggling in the region might have cost the European Union up to approximately €700 million in tax revenue. It reportedly raised concerns about tobacco smuggling over the fence/frontier into an illicit market in southern Spain and the involvement of organized crime on both sides of the fence/frontier.

36. According to the administering Power, since the issuance of the report and following the second visit by the European Commission's fact-finding mission, in July 2014, as mentioned above, the European Commission has welcomed the steps taken by the Government of Gibraltar, including restricting the number of cigarettes allowed in the area around the land border to 200 per person. Furthermore, the Government of Gibraltar remains ready to work directly with its Spanish counterparts to tackle this complex issue. Spain, for its part, has stated that cooperation on the side of the British authorities in the fight against smuggling was, in its view, far from improving and holds its position that the lack of cooperation demands more intense checks, both in the water and at the fence, in the face of the increase in tobacco smuggling figures.

37. According to the administering Power, the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, a convention under the auspices of OECD, has been extended to Gibraltar.

F. Human rights

38. The following major international human rights instruments apply in Gibraltar: the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and the European Convention for the Protection of Human Rights and Fundamental Freedoms. The 2006 Constitution of the Territory includes a chapter on the fundamental rights and freedoms of the individual. In October 2013, the Government of Gibraltar formally requested the extension of the Convention on the Elimination of All Forms of Discrimination against Women to the Territory. According to the administering Power, the Government of Gibraltar has continued to work closely with United Kingdom counterparts to explore the extension of that Convention as well as the Convention on the Rights of the Child.

VI. Environment

39. In April 2014, the United Kingdom submitted its fifth national report to the Conference of the Parties to the Convention on Biological Diversity. The report contains information in respect of the overseas territories to which the Convention has been extended, namely the British Virgin Islands, the Cayman Islands, Gibraltar and Saint Helena, Ascension and Tristan da Cunha.

40. The Overseas Territories Biodiversity Strategy has been devised as a key tool to enable the United Kingdom and overseas territorial Governments to meet the relevant international obligations for the conservation and sustainable use of biodiversity. In April 2014, a report was published about ongoing and planned activities that are supported by the Department for Environment, Food and Rural Affairs, the Foreign and Commonwealth Office and the Department for International Development of the Government of the United Kingdom, as well as its statutory adviser the Joint Nature Conservation Committee, in each of the areas under the Strategy. The report covered, inter alia, activities in Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, the Falkland Islands (Malvinas), Gibraltar, Montserrat, Pitcairn, Saint Helena and the Turks and Caicos Islands.

VII. Forum for Dialogue on Gibraltar

41. Negotiations between the United Kingdom and Spain on the subject of Gibraltar led in 2004 to the establishment of the trilateral Forum for Dialogue on Gibraltar. Since 2010, no meetings have been held. In 2012-2014, the United Kingdom expressed the desire to continue with the Forum and, as an alternative, offered an informal, ad hoc dialogue involving, as appropriate, all relevant parties to the issues under discussion. Spain expressed the position that the Forum no longer existed and should be replaced with a new "ad hoc" mechanism for local cooperation in the interest of social well-being and regional economic development, in which the people of the Campo de Gibraltar and Gibraltar were represented. No ad hoc talks had been convened as at February 2015.

VIII. Future status of the Territory

A. Position of the administering Power

42. In a statement in exercise of the right of reply before the Special Political and Decolonization Committee (Fourth Committee) of the General Assembly, on 8 October 2014, the representative of the United Kingdom, the administering Power, inter alia, recalled that the United Kingdom had sovereignty over Gibraltar and the territorial waters surrounding it and that, as a separate Territory, Gibraltar enjoyed the individual and collective rights accorded by the Charter of the United Nations. The 2006 Gibraltar Constitution provided for a modern and mature relationship between Gibraltar and the United Kingdom, not one based on colonialism. The United Kingdom would not enter into arrangements under which the people of Gibraltar would pass under the sovereignty of another State against their wishes and would not enter into sovereignty negotiations which they opposed.

43. He went on to say that the United Kingdom and Gibraltar wished to continue to take part in the trilateral Forum for Dialogue, which was the most credible, constructive and practical means of strengthening relations between the United Kingdom, Gibraltar and Spain for the benefit of all parties. The United Kingdom regretted that Spain had withdrawn from those talks in 2011. However, following a proposal by the United Kingdom and Gibraltar to Spain in April 2012, his country noted a constructive move to ad hoc talks aimed at strengthening cooperation on issues of mutual importance through means which fully reflected the interests, rights and responsibilities of the people of Gibraltar.

44. In addition, the United Kingdom denied the allegations by Spain that it had illegally occupied the isthmus and the waters surrounding it. Pursuant to the United Nations Convention on the Law of the Sea, territorial waters flowed from sovereignty over the land. The United Kingdom was therefore assured of its sovereignty over British Gibraltar territorial waters. The United Kingdom would continue to uphold British sovereignty and would use a range of proportionate naval, police and diplomatic responses to incursions and other incidents.

45. He further stated that Gibraltar's fair and open tax system complied with all applicable European Union directives and regulations and met internationally agreed tax standards. It had entered into several tax- and information-sharing agreements with other States, but Spain had yet to reply to written proposals by Gibraltar for such cooperation. It should also be noted that while the European Commission had recognized Gibraltar's commitment to tackling cigarette smuggling over the Spain-Gibraltar border, it had raised concerns about Spain's lack of progress in addressing its recommendations. Gibraltar stood ready to work with its Spanish counterparts across the full range of law enforcement challenges, as cooperation and good neighbourly relations would benefit both parties. Creation of the reef was legal and was part of the government of Gibraltar's long-term marine environment management plan to improve fish stocks and regenerate habitat. The use of inert concrete blocks to create artificial reefs was consistent with international best practice and with Spain's own approach to artificial reefs (see A/C.4/69/SR.3).

B. Position of the territorial Government

46. On 8 October 2014, addressing the Fourth Committee, the Chief Minister of Gibraltar said, inter alia, that seeking only bilateral engagement with the administering Power, the United Kingdom, was an approach that went against the grain of modern politics and the principles of consent and self-determination that the Committee had been established to defend, and must therefore be rejected. He further stated that Gibraltarians would veto any such bilateral talks, for they themselves were the only relevant decision makers in determining the future of Gibraltar, regardless of any pending sovereignty claim.

47. He also stated that working on non-sovereignty issues through the established trilateral Forum for Dialogue would build new relationships of trust and confidence that would yield real human and economic value in the short, medium and long term. Gibraltar was committed to establishing a dialogue with the Spanish Government, because diplomacy and dialogue were the catalysts for lasting change and reconciliation of previously irreconcilable positions. Together with its United Kingdom counterparts, his Government had proposed ad hoc talks in parallel to the trilateral Forum.

48. He concluded that the desire for economic partnership and political reconciliation with Spain was clear and genuine, but that Gibraltar belonged to Gibraltarians (see A/C.4/69/SR.3).

C. Position of the Government of Spain

49. On 8 October 2014, in his statement made before the Fourth Committee, the representative of Spain, inter alia, recalled his country's long-standing position that the principle of territorial integrity applied to the question of Gibraltar, as the General Assembly had made clear in its relevant resolutions. In his view, attempts to perpetuate cases, like the one of Gibraltar, of "colonialism by consent", in disregard of United Nations principles, were unacceptable, as they aimed to maintain the situation at the expense of the legitimate rights of another State and of the original inhabitants of the colony. As the case of Gibraltar was different from that of most Non-Self-Governing Territories, so too were the solutions applicable to it. The 1713 Treaty of Utrecht was unquestionably still in force; as the United Kingdom had repeatedly admitted, that Treaty made Gibraltar's independence contingent on Spain's consent. The local Spanish population of Gibraltar had been forced to leave the territory in 1704, when the British occupation had begun. Under the Treaty, Spain had ceded to the British only the town and castle of Gibraltar, together with the port (with its internal waters only), fortifications and forts belonging thereto. Spain had never ceded territorial waters or the isthmus, which was illegally occupied by the United Kingdom.

50. The representative of Spain went on to say that, on the basis of historical and legal arguments pertaining to territorial integrity and the doctrine established by the United Nations and reiterated systematically by the Special Committee, the only solution was the restitution of both the territory transferred from Spain under the Treaty and the land later occupied illegally by the United Kingdom. The principle of self-determination valid for most colonized Territories did not apply in the case of Gibraltar because that was a right bestowed only on the original colonized

inhabitants, not on subsequently imposed settlers. The United Nations had called for a solution to be negotiated bilaterally between Spain and the United Kingdom in the framework of the 1984 Brussels Agreement. The interests of the people of Gibraltar must be taken into account, but in the negotiations with Spain, the United Kingdom was responsible for those interests as the administering Power.

51. Tensions between Spain and the colony had worsened since March 2012, when the authorities of Gibraltar had terminated the informal 1999 agreement with Spanish fishermen's associations. In the summer of 2013, some 70 concrete blocks had been sunk in waters Spain considered its own and work had continued to reclaim land in those waters as part of the policy to expand the Territory. Furthermore, statistics showed that the Gibraltarian authorities paid only lip service to helping combat all forms of illicit trafficking, particularly with regard to the increase in cigarette smuggling and associated money-laundering. Spain had consequently been forced to intensify its surveillance of the waters and its mandatory inspections at the fence, which did not violate European Union legislation, as corroborated in a report by the European Commission. The representative of Spain stated that the European Anti-Fraud Office had indicated, in a 2014 report, that it had found evidence that crimes of smuggling and money-laundering had been committed, affecting the financial and other interests of the European Union.

52. Spain would continue to support the decolonization process through peaceful and legitimate means and was willing to maintain good relations with the United Kingdom, on the basis of dialogue and regional cooperation, in the interests of the social well-being and economic development of the inhabitants of both Gibraltar and Campo de Gibraltar. The trilateral Forum for Dialogue, which had become simply a tool for advancing Gibraltar's claim to sovereignty, had ceased to exist. For there to be a political solution, the United Kingdom should restart the bilateral dialogue on issues of sovereignty, considering the particularities of the case.

53. Furthermore, in exercise of the right of reply to remarks made by the representative of the United Kingdom at the same meeting and on 10 October 2014, the representative of Spain reiterated the position of Spain regarding the areas ceded to the United Kingdom under the Treaty of Utrecht.

54. He went on to say that the isthmus had always been under Spanish sovereignty and that the mere continued occupation by the British did not meet the requirements of international law for the acquisition of sovereignty. The occupation of the isthmus was illegal and ran counter to international law. Spain rejected the reference made by the representative of the United Kingdom to illegal incursions in Gibraltarian waters; they were routine operations of Spanish vessels in Spanish waters and would therefore continue. Furthermore, concrete blocks with long hard spikes had no environmental purpose, but rather were intended to prevent Spanish fishing boats from operating in those waters, reflecting the confrontational approach of authorities in Gibraltar. Spain was, however, willing to negotiate with the United Kingdom the establishment of a new regional framework in which the United Kingdom and Spain, Gibraltarian authorities and Spanish local and regional authorities would all meet to deal exclusively with cooperation issues (see A/C.4/69/SR.3).

55. The representative of Spain maintained that the tripartite Forum for Dialogue no longer existed and therefore hoped that ad hoc cooperation between the United

Kingdom, Spain and Gibraltar would start in the near future so that progress in countering smuggling, money-laundering and environmental pollution could be made (see A/C.4/69/SR.5).

D. Negotiations between the United Kingdom and Spain

56. Within the framework of the Brussels Process, which is separate from the Forum for Dialogue, no bilateral negotiations were held in 2014. The United Kingdom has made it clear that no sovereignty-related talks can be entered into without the consent of Gibraltar, nor can it enter into a process of sovereignty negotiations with which Gibraltar is not content.

57. For its part, the Government of Spain continued to demand the renewal of bilateral sovereignty talks with the Government of the United Kingdom. It considers that the position of the United Kingdom goes against the doctrine established in the relevant General Assembly resolutions and against the commitment made with Spain in the Brussels Declaration of 1984.

E. Discussions between the United Kingdom and Gibraltar

58. The Governments of the United Kingdom and Gibraltar have both recognized that the current Constitution provides for a modern and mature constitutional relationship between the two sides, one which is not based on colonialism. Both Governments believe that the delisting and decolonization criteria of the United Nations are anachronistic, and recognize that, under Article 73 *e* of the Charter, the United Kingdom is obliged to continue to submit annual reports until such time as the General Assembly removes a Territory from its list of Non-Self-Governing Territories.

IX. Consideration by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

59. A representative of Spain attended the Pacific regional seminar held in Fiji from 21 to 23 May 2014, and made a statement, as did a representative of Gibraltar[1] (see A/69/23). Concluding observations by the participants with regard to the situation in Gibraltar were included in A/69/23, annex II, in which the participating members, inter alia, recalled the need to put into practice the appeal made by the United Nations to Spain and the United Kingdom to hold talks on the question of Gibraltar in order to reach, in the spirit of the Brussels Declaration of 27 November 1984 and listening to the interests of the population of Gibraltar, a definitive and negotiated solution of the controversy in the light of the relevant resolutions of the General Assembly and the applicable principles, and in accordance with the spirit of the Charter of the United Nations.

[1] The full texts of the statements are available from www.un.org/en/decolonization/regsem2014.asp.

60. The Special Committee, which discussed the question of Gibraltar in a meeting held on 16 June 2014, had before it the 2014 working paper prepared by the Secretariat concerning the Territory (A/AC.109/2014/12). As reflected in the summary record of the meeting (A/AC.109/2014/SR.3), statements were made by the representative of Spain, the Chief Minister of Gibraltar and a civil society organization. On the proposal of the Chair, the Committee decided to resume the consideration of the question at its next session and to transmit the relevant documentation to the General Assembly in order to facilitate the consideration of the question by the Fourth Committee.

B. Special Political and Decolonization Committee (Fourth Committee)

61. The Fourth Committee of the General Assembly considered the question of Gibraltar on 8 October 2014. As reflected in the summary record of the third meeting, the Committee heard statements by the Chief Minister of Gibraltar and Spain. At the third and fifth meetings on 8 and 10 October 2014, the United Kingdom and Spain exercised the right of reply (see A/C.4/69/SR.3 and A/C.4/69/SR.5).

62. At its meeting on 23 October 2014, the Fourth Committee adopted without a vote a draft decision on the question of Gibraltar (A/C.4/69/L.5), which was submitted by the Chair of the Committee (see A/C.4/69/SR.13).

X. Action taken by the General Assembly

63. On 5 December 2014, the General Assembly, on the recommendation of the Fourth Committee, adopted, without a vote, decision 69/523, on the question of Gibraltar. In that decision:

> The General Assembly, recalling its decision 68/523 of 11 December 2013:
>
> (a) Urged the Governments of Spain and the United Kingdom of Great Britain and Northern Ireland, while listening to the interests and aspirations of Gibraltar that are legitimate under international law, to reach, in the spirit of the Brussels Declaration of 27 November 1984, a definitive solution to the question of Gibraltar, in the light of the relevant resolutions of the General Assembly and applicable principles, and in the spirit of the Charter of the United Nations;
>
> (b) Took note of the desire of the United Kingdom to continue with the trilateral Forum for Dialogue on Gibraltar;
>
> (c) Took note of the position of Spain that the Forum does not exist any longer and should be replaced with a new mechanism for local cooperation in the interest of social well-being and regional economic development, in which the people of the Campo de Gibraltar and Gibraltar are represented;
>
> (d) Took note of efforts made by both parties to resolve current problems and to engage in a flexible and responsive form of dialogue between all relevant and appropriate parties, on an informal ad hoc basis, in order to find common solutions and make progress on issues of mutual benefit.